

## LAW AND ORDER CODE

### ARTICLE II

#### COURTS AND PROCEDURES

##### Section 205. Pretrial Release

a. Notwithstanding Section 206 under this Chapter, the Court shall have the discretion to release a Defendant under the supervision of a Pretrial Officer. In determining whether a given Defendant should be given pretrial release, the Court shall consider such of the following factors as may be relevant:

- (A) The nature and circumstances of the offense(s) charged. The Court, however, should not be considering, or even be apprised of, any evidence until such evidence is introduced and accepted in a proceeding, whether arraignment or trial. The Court may be apprised of the potential sentence upon conviction, insofar as these factors are relevant to the risk of nonappearance;
- (B) The Defendant's prior-record of appearance at court proceedings, flight to avoid prosecution or failure to appear at court proceedings;
- (C) Number of pending cases; and
- (D) The defendant's family ties, employment status and history, financial resources, reputation, character and mental condition, and length of residence in the community;
- (E) The recommendations of an agency which conducts pretrial release investigations';
- (F) The recommendation of the Tribal Prosecutor and/or Defense Attorney/Advocate;
- (G) The danger of the defendant to another person or to the community;
- (H) The danger of the defendant to himself or herself; and
- (I) Any other factor bearing on the risk of a willful failure to appear; and
- (J) Financial conditions.

b. No Defendant subject to the mandatory seventy-two (72) hour hold under Section 1-404(3) for the Domestic and Family Violence Code may be release under this Section unless such Defendant has served the seventy-two (72) hours.

c. The duties of CRIT Pretrial Services Agency (PSA) are :

PROPOSED AMENDMENT – NOT FOR DISTRIBUTION OR CITATION

- (A) To conduct pre-first appearance inquiries; and
- (B) To appear, present, and make recommendations to the Court at arraignments and subsequent hearings on release conditions or modification of release conditions on behavioral treatment, medical, employment, housing or educational plans and reporting schedules to the PSA; and
- (C) To make random site visits to Defendant and conduct drug testing when appropriate during these visits; and
- (D) To make other recommendations to the Court in support of Defendant's chance of a successful completion of his/her pretrial release obligations.